

ORIGINAL

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
 WASHINGTON, D.C. 20554

In the Matter of

Amendment of Section 73.202(b)
 Table of Allotments
 FM Broadcast Stations
 (Thorndale, Texas)

)
)
)
)
)
)
)

MM Docket No. 99-243
 RM-9675

RECEIVED
 JUN 16 2000
 FEDERAL COMMUNICATIONS COMMISSION
 OFFICE OF THE SECRETARY

To: Chief, Allocations Branch
 Policy and Rules Division
 Mass Media Bureau

SUPPLEMENT TO COMMENTS OF
HOUSTON CHRISTIAN BROADCASTERS, INC.

Houston Christian Broadcasters, Inc., (hereafter "HCBI") by its undersigned counsel, hereby respectfully submits the attached supplement to its comments in support of its PETITION FOR RULE MAKING, filed on November 30, 1998, requesting that the Commission modify the FM Table of Allotments in Section 73.202(b) of the Rules and Regulations to assign FM channel 286A to Thorndale, Texas, and to reserve the allocation for noncommercial, educational use. In addition, it was requested that the Commission amend HCBI's pending application (File No. BPED-970911MA) for the FM channel 257A allotment at Thorndale, Texas, to specify operation on Channel *286A with full "cut-off"

No. of Copies rec'd 0+6
 List ABCDE

protection. The Commission issued a "Notice of Proposed Rule Making" on July 2, 1999, seeking public comment on the HCBI Petition.¹

**I. GOOD CAUSE EXISTS FOR THE ACCEPTANCE OF THESE
SUPPLEMENTAL COMMENTS.**

1. On April 21, 2000, the Commission released its Report And Order in the Reexamination of the Comparative Standards for Noncommercial Educational Applications, FCC 00-120 (hereafter the "Report"). The Report was published in the Federal Register, Vol. 65, No. 111 at 36, 375 (June 8, 2000) and became effective on that date.

2. In the Report, the Commission adopted a new standard for future NCE allocations on non-reserved, or commercial, band, FM channels such as the proposal in this proceeding by HCBI. The Commission stated its new policy as follows:

For future FM channel allocations, a NCE entity can show that the need for an NCE station is greater than the need for a commercial station.

An NCE proponent could so demonstrate by showing that:

- (A) the NCE radio proponent is technically precluded from using the reserved band by existing stations or previously filed applications or an NCE television proponent shows that there is no reserved channel assigned to the community; and
- (B) the NCE proponent would provide a first or second radio or television NCE service to 10% of the population within the proposed allocation's 60 dBu (1 mV/m) service contour (radio) or Grade B contour (TV). New service to fewer than 2000 people would be considered insignificant for purposes of this determination.²

¹ DA 99-1292.

² FCC 00-120 at para. 114.

3. In its earlier-filed Comments in this proceeding, HCBI made a showing that essentially provides the information that is elicited by the Commission in connection with this new policy. However, appended hereto is an Engineering Declaration by HCBI's technical consultant, Lechman & Johnson, Inc. This Declaration confirms that the proposed NCE FM allotment on channel *286A³ will provide a first service to 3, 973 people, or in excess of the 2,000 person minimum established by the Commission in the Report:

4. Good cause exists for the acceptance of this Supplement in that it merely provides additional information in support of earlier-filed comments consistent with a policy established by the Commission subsequent to the comment deadline. Moreover, the acceptance of this supplement furthers the recently enacted Commission policy of encouraging preferences for NCE use of non-reserved FM channels where there is a greater need for such service than for additional commercial service.

Wherefore, Houston Christian Broadcasters, Inc. respectfully supplements its support for the amendment of Section 73.202(b) of the FM Table of Allotments as follows:

	Present	Proposed
<u>Community</u>	<u>Allocation</u>	<u>Allocation</u>
Thorndale	257A	257A, *286A

HCBI also supplements its support for its pending application (BPED-970911MA) for the present FM channel 257A allotment being amended, with cut-

off protection, to specify FM channel *286A upon the allocation of that channel to
Thorndale.

Respectfully submitted,

Houston Christian Broadcasters, Inc.

By: 

Jeffrey D. Southmayd

Its Attorney

Southmayd & Miller
1220 Nineteenth Street, N.W.
Suite 400
Washington, D.C. 20036
(202) 331-4100

Date: June 16, 2000

DECLARATION
ENGINEERING STATEMENT

Peter W. Lechman says that he is an engineer and President of Lechman & Johnson, Inc., Telecommunications Consultants, with offices located at 9049 Shady Grove Court, Gaithersburg, Maryland 20877 and that his qualifications are a matter of record with the Federal Communications Commission.

That the firm of Lechman & Johnson, Inc. has been retained by HOUSTON CHRISTIAN BROADCASTERS, INC. ("HCBI") to provide additional information the Commission is requesting as a result of a Report and Order, MM Docket No.95-31, adopted April 4, 2000, on re-examination of the Comparative Standards for Non Commercial Educational Applicants. Specifically, the Commission's request is as follows:

(a) Future NCE Allocations (non-reserved channels)

Upon consideration of the comments, we have decided for future FM and television applicants, to expand opportunities to allocate channels from non-reserved to reserved. In addition to considering TV channel 6 (radio only) and foreign station interference (radio only), we will also adopt a needs test for future rule making requests which ask that non-reserved channels not already in the Table of Allotments be added and reserved for NCE use. For these future allocations requests, an NCE entity can show that the need for an NCE station is greater than the need for a commercial station. An NCE proponent could so demonstrate by showing that:

(A) the NCE radio proponent is technically precluded from using the reserved band by existing stations or previously filed applications or an NCE television proponent shows that there is no reserved channel assigned to the community; and

(B) the NCE proponent would provide a first or second radio or television NCE service to 10% of the population within the proposed allocation's 60 dBu (1 mV/m) service contour (radio) or Grade B contour (TV). New NCE service to fewer than 2,000 people would be considered insignificant for purposes of this determination.

Presently, HCBI is one of six applicant for Channel 257A at Thorndale, Texas, and the only applicant proposing the use of this channel as a non-commercial educational station. HCBI filed a rule making (RM-9675) to amend the Table of Allotments of Section 73.202(b) of the Rules (MM Docket No.79-243) to assign Channel 286A to Thorndale and designate the channel for non-commercial use. The reserved allotment of Channel 286A would be applied for by HCBI and would allow them to break away from the mutually exclusive situation.

Lechman & Johnson, Inc.

DECLARATION

Page two

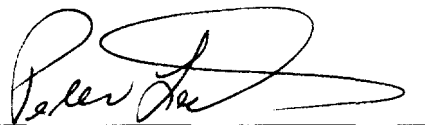
An Engineering Statement was prepared by the Affiant (dated May 11, 1999) that addressed the specific issues outlined in the Commission's Report and Order, and submitted to the Commission by their communication attorney. Specifically, we will address EXHIBITS 4 and 5 of that report. EXHIBIT 4 is a white paper map showing areas with zero through five and more services of non-commercial station coverage within the proposed 60 dBu contour of Channel 286A at the specific site chosen for this allocation. EXHIBIT 5 is a tabulation of population and areas associated with EXHIBIT 4.

In accordance with the Report and Order, HCBI will provide a first service to 3,973 people in a area of 672.5 sq. km. HCBI will also provide a second service to 8,688 people in an area of 604.6 sq. km. The total population and area within the 60 dBu contour is 35,884 people and 2501.9 sq. km respectively. Therefore, the total population served for first and second service is 12,661 people, representing 35.3% of the total population, and serving 1277.1 sq. km of area, representing 51% of the area served.

HCBI meets and exceeds the Commission's new comparative standards of providing first and second NCE radio service to 10% of the population within the proposed 60 dBu contour. Also, the May 11, 1999 reports provided information that showed that there are no NCE channels available in the Thorndale, TX area, which was incorporated in the Commission's RM-9675 in proposing Channel 286A to Thorndale for reserved use.

I declare under the penalty of perjury that the foregoing is true and correct.

LECHMAN & JOHNSON, INC.



Peter W. Lechman
Consulting Engineer
May 12, 2000

Lechman & Johnson, Inc.

CERTIFICATE OF SERVICE

I, Jeffrey D. Southmayd, do hereby certify that I have caused a copy of the foregoing to be served by first class United States mail, postage pre-paid, on the following on this 16th day of June, 2000.

Robert L. Thompson, Esquire
Taylor, Thiemann & Aitken, L.C.
908 King Street, Suite 300
Alexandria, Virginia 22314
Counsel to Charles E. Crawford

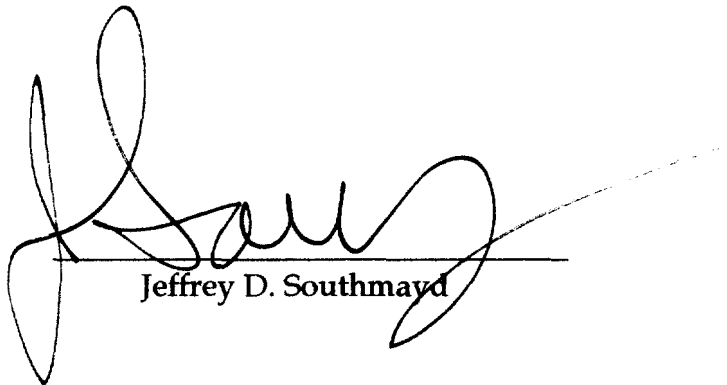
Lee J. Peltzman, Esquire
Shainis & Peltzman, Chtd.
Suite 290
1901 L Street, N.W.
Washington, D.C. 20036
Counsel to Double K Broadcasting

Henry E. Crawford, Esquire
Suite 900
1150 Connecticut Avenue, N.W.
Washington, D.C. 20036-4192
Counsel to Roy Henderson
d/b/a Jackson Lake Broadcasting, Co.
and Cameron Broadcasting Co.

Robert J. Buenzle, Esquire
12110 Sunset Hills Road
Suite 450
Reston, Virginia 22090
Counsel to Centex Broadcasting Co.

Ms. Ann C. Farhat
Bechtel & Cole, Chtd.
Suite 250
1901 L Street, N.W.
Washington, D.C. 20036
Counsel to Elgin FM Limited Partnership

John J. McVeigh, Esquire
12010 Blue Paper Trail
Columbia, Maryland 21044-2787
Counsel to Munbilla Broad. Co.



Jeffrey D. Southmayd